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28995 7590 10/01/2008

RALPH E. JOCKE
walker & jocke LPA
231 SOUTH BROADWAY
MEDINA, OH 44256

EXAMINER

KANERVO, VIRPI H

ART UNIT

PAPER NUMBER

3691

DATE MAILED: 10/01/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/601,950

06/23/2003

Jeffery M. Enright

D-1181 R2

7903

TITLE OF INVENTION: AUTOMATED BANKING MACHINE WITH IMPROVED RESISTANCE TO FRAUD

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1440	\$300	\$0	\$1740	01/02/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

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If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

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B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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28995 7590 10/01/2008

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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nonprovisional NO \$1440 \$300 \$0 \$1740 01/02/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
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KANERVO, VIRPI H 3691 705-035000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
- 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1232 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1232 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability

Application No.

10/601,950

Examiner

VIRPI H. KANERVO

Applicant(s)

ENRIGHT ET AL.

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed on 03/18/2008.
2. ☒ The allowed claim(s) is/are 1,2,4,5,9 and 12-14.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date ____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

DETAILED ACTION

1. Claims 1-2, 4-5, 9, and 12-14, are presented for examination. Applicant filed amendment on 03/18/2008 canceling claims 3, 6-8, 10-11, and 15-27, and amending claims 1-2, 4-5, 9, and 12-14. After carefully reviewing Applicant's amendment, Examiner withdraws the outstanding rejection of claims 1-2, 4-5, 9, and 12-14. Therefore, claims 1-2, 4-5, 9, and 12-14, are ALLOWED.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Daniel Wasil on July 10, 2008.

IN THE CLAIMS:

1. (currently amended) A method comprising the following steps carried out responsive to operation of at least one computer:
 - (a) emitting radiation from at least one radiation emitting device of an automated banking machine, wherein the automated banking machine includes a user interface and a cash dispenser;
 - (b) sensing radiation emitted in (a);
 - (c) capturing first image data corresponding to the user interface;
 - (d) storing the first image data;
 - (e) subsequent to (c), determining that a person is in proximity to the user interface;
 - (f) subsequent to (e), determining that a person is not in proximity to the user interface;
 - (g) responsive to (f), capturing second image data corresponding to the user interface;

- (h) comparing the second image data captured in (g) and the first image data captured in (c), wherein the comparing includes a topographical comparison;
- (i) responsive to (h) resulting in met topographical differences, executing a sequence of actions including:
 - (i1) emitting radiation from the at least one radiation emitting device;
 - (i2) sensing radiation emitted in (i1);
 - (i3) comparing the radiation sensed in (i2) with the radiation sensed in (b);
- (j) responsive to (i3) resulting in met sensed radiation differences, determining that the machine has a fraud condition corresponding to installation of an unauthorized device adjacent to the user interface; and
- (k) responsive to a determination in (j) of the fraud condition, sending captured image data including at least the second image data, through a network to enable remote confirmation of an unauthorized device being adjacent to the user interface.

2. (currently amended) The method according to claim 1 wherein (a) and (i1) include emitting radiation from at least one radiation emitting device adjacent to a card reader slot on the user interface, and wherein (b) and (i2) include sensing at least one property of radiation with at least one sensor adjacent to the card reader slot.
3. (canceled)
4. (currently amended) A method comprising the following steps carried out responsive to operation of at least one computer:
 - (a) emitting radiation from at least one radiation emitting device of an automated banking machine, wherein the automated banking machine includes a user interface and a cash dispenser;
 - (b) sensing radiation emitted in (a);
 - (c) determining that a person is in proximity to the user interface for an extended time without the person attempting a transaction with the machine;

(d) responsive to (c), executing a sequence of actions including:

(d1) emitting radiation from the at least one radiation emitting device;

(d2) sensing radiation emitted in (d1);

(d3) comparing the radiation sensed in (d2) and the radiation sensed in
(b);

(e) responsive to (d3) resulting in met sensed radiation differences,

(e1) determining that the machine has a fraud condition corresponding to
installation of an unauthorized device adjacent to the user interface;

(e2) obtaining image data corresponding to the user interface; and

(f) responsive to a determination in (e1) of the fraud condition, sending image
data obtained in (e2) through a network to enable remote confirmation of
an unauthorized device being adjacent to the user interface.

5. (previously presented) The method according to claim 1 wherein (h) includes detecting a change in image data corresponding to at least a portion of the user interface.

6-8. (canceled)

9. (currently amended) A method comprising the following steps carried out responsive to operation of at least one computer:

(a) emitting radiation from at least one radiation emitting device of an automated banking machine, wherein the automated banking machine includes a user interface and a cash dispenser;

(b) sensing radiation emitted in (a);

(c) determining that the machine delivered a receipt to each of a plurality of sequential users of the machine and that each of the sequential users did not take the respective receipt;

(d) responsive to (c), executing a sequence of actions including:

(d1) emitting radiation from the at least one radiation emitting device;

(d2) sensing radiation emitted in (d1);

(d3) comparing the radiation sensed in (d2) with the radiation sensed in
(b);

(e) responsive to (d3) resulting in met sensed radiation differences,

(e1) determining that the machine has a fraud condition corresponding to
installation of an unauthorized device adjacent to the user interface;

(e2) obtaining image data corresponding to the user interface; and

(f) responsive to a determination in (e1) of the fraud condition, sending image
data obtained in (e2) through a network to enable remote confirmation of
an unauthorized device being adjacent to the user interface.

10-11. (canceled)

12. (previously presented) The method according to claim 5 wherein (e) includes sensing a transaction conducted at the machine.

13. (previously presented) The method according to claim 5 and further comprising:

(l) responsive to (j), generating a message; wherein (k) includes sending the message through the network.

14. (previously presented) The method according to claim 5 and further comprising:

(l) storing data corresponding to a plurality of actions comprising the sequence in at least one data store; wherein (i) includes executing the sequence responsive to a triggering event corresponding to installation of an unauthorized device, and wherein the sequence includes sending at least one message through the network.

15-27. (canceled)

Allowable Subject Matter

3. Claims 1-2, 4-5, 9, and 12-14, are allowed. The following is a statement of reasons for the indication of allowable subject matter:

The claimed invention is directed to a method for detecting fraud condition in an automated banking machine.

The prior art of record, Paganini et al., US patent No. 4,420,751, teaches a method and an apparatus for detecting, by using radiation emitted from the apparatus, events of the absence, presence, and movement of a user within a defined user area, and a user operating zone within the user area, and of a user associated with a user device, *e.g.*, automatic teller bank machine, and for providing output signals indicative of those events.

However, the prior art fails to teach a method for performing a sequence of steps in order of: “emitting radiation from the at least one radiation emitting device” and “sensing radiation emitted;” repeating the emitting and sensing of radiation; comparing the to emitted and sensed radiations; and “responsive to resulting in met sensed radiation differences, determining that the machine has a fraud

condition corresponding to installation of an unauthorized device adjacent to the user interface;” and “obtaining image data corresponding to the user interface.”

This feature is found in independent claims 1, 4, and 9. Therefore, independent claims 1, 4, and 9, are allowable. Claims 2, 5, and 12-14, are all dependent claims depending from claim 1. Therefore, dependent claims 2, 5, and 12-14, are also allowable.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Abtahi (5,509,083) discloses method and apparatus for confirming the identity of an individual presenting an identity card.

Keeping Fraud Outside the Gate, June 1998, Collections & Credit Risk, vol. 3, no. 6, pp. 77+

Panczyk, T. D., Keeping Fraud Outside the Gate, June 1998, Collection & Credit Risk, vol. 3, no. 6, pp. 77+

Zacks, Rebecca, On-sight Security March, March/April 1999, Technology Review, vol. 102, no. 2, pp. 26+

Image-Reject Applications Finding a Niche, July 4, 1996, Item Processing Report, vol. 7, no. 13

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VIRPI H. KANERVO whose telephone number is (571)272-9818. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m., EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

Art Unit: 3691

free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Virpi H. Kanervo

/Alexander Kalinowski/

Supervisory Patent Examiner, Art Unit 3691